



County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
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DAVID E. JANSSEN
Chief Administrative Officer

March 20, 2006

To: Mayor Michael D. Antonovich
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Zev Yaroslavsky
Supervisor Don Knabe

From: David E. Janssen
Chief Administrative Officer

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

**BRUCE PERELMAN'S LACERA ELECTION RECOMMENDATIONS
(ITEM NO. 11, AGENDA OF MARCH 21, 2006)**

On March 7, 2006, your Board, after hearing the concerns of Mr. Bruce Perelman regarding the Los Angeles Employees Retirement Association (LACERA) election process, directed County Counsel and this Office to review the matter and provide your Board with a report on our findings. County Counsel has provided their response to your Board under separate cover. This Office has consulted with the Acting Executive Officer of the Board of Supervisors, the Registrar-Recorder/County Clerk (RR/CC) and County Counsel in developing the following responses to the recommendations proposed by Mr. Perelman in the letter dated February 23, 2006, to your Board.

Bruce Perelman's Recommendation No. 1

The election resolution, which governs the LACERA election process, be amended to double the number of words starting with capital letters allowed in a candidate's statement.

RESPONSE

This recommendation would result in undetermined increased costs and workload for RR/CC which is responsible for mailing the official ballots to County employees. The official ballots include the candidates' statements. Should your Board desire that this recommendation be implemented, RR/CC would need to determine if additional funding would be required.

Bruce Perelman's Recommendation No. 2

The election resolution be amended to encourage employee organizations to hold candidate debates.

RESPONSE

This recommendation requires further analysis as Mr. Perelman is not specific in defining "employee organizations." In addition, the department responsible for organizing the candidate debates would need to be determined.

Bruce Perelman's Recommendation No. 3

Amend the election resolution to limit independent expenditures to support and/or oppose any candidate, in any calendar year, to \$2,000.

RESPONSE

This Office concurs with County Counsel's response to this recommendation.

Bruce Perelman's Recommendations No. 4 and No. 5

The election resolution be amended to allow for each candidate to be given one-half page and up to 1,000 words in the *County Digest* to be distributed to all employees in the week prior to the mailing of official ballots.

Amend the election resolution to provide that candidate statements be reprinted in the *County Digest* in the month official ballots are mailed.

RESPONSE

Both of these recommendations do not appear practical at this time due to the additional costs that will be incurred as a result of the increased number of pages in the *County Digest* that will be required to accommodate the candidates' information. In addition, RR/CC is responsible for reviewing the content of a candidate's statement of qualifications. RR/CC has established candidate statement guidelines that regulate the content of candidate statements and has the authority to accept or reject statements. If approved, the statements will be

part of the official ballot. Similarly, if an expanded version of the candidate statement is to be published in the *County Digest*, guidelines will need to be developed to regulate what candidates may submit in order to safeguard the County against publishing potentially slanderous statements. Should your department desire that this recommendation be implemented, the Department of Human Resources (DHR), as the responsible entity for publication of the *County Digest*, will need to provide input on this matter.

Bruce Perelman's Recommendations No. 6 and No. 7

Amend the election resolution to provide that the County e-mail copies of all candidate statements to all County e-mail addresses on the same day that official ballots are mailed.

The election resolution be amended to provide that the County e-mail copies of the one-half page Digest statement to all County e-mail addresses fifteen days following mailing of the official ballots.

RESPONSE

These recommendations could present significant challenges as not all County employees have e-mail addresses. Further analysis of these recommendations with input from DHR is necessary. Additionally, these recommendations seem to be in direct conflict with the election resolution stating that an employee who is a LACERA candidate is a candidate in his or her own personal capacity and may not use County time or any County resources in connection with campaign or election.

Bruce Perelman's Recommendation No. 8

Amend the election resolution to provide that organizations are prohibited from using agents, or planning to use agents, to systematically remove campaign materials which are posted in a manner consistent with rules on County bulletin boards, during the election.

RESPONSE

This Office concurs with County Counsel's response to this recommendation.

Bruce Perelman's Recommendations No. 9 and No. 10

The election resolutions be amended to prohibit persons who are not employees of the County from using County resources, including space in County facilities, or other County property for campaigning purposes related to the LACERA elections.

The election resolutions be amended to allow for all restrictions which apply to candidates also apply to all other County employees and persons who are not County employees.

RESPONSE

This Office concurs with County Counsel's response to these recommendations.

Bruce Perelman's Recommendation No. 11

Amend the election resolution to define payments made to any person or persons participating in the campaign supporting any candidate as a campaign contribution to that candidate.

RESPONSE

This Office concurs with County Counsel's response to this recommendation.

Bruce Perelman's Recommendation No. 12

The election resolutions be amended to prohibit bulletin boards reserved for union postings from being used to post LACERA election materials.

RESPONSE

This Office concurs with County Counsel's response to this recommendation.

Conclusion

Several of the recommendations present legal obstacles and we concur with County Counsel's advice to your Board on these items. With regard to the other recommendations (Nos. 1, 2, 4, 5, 6, and 7), we do not see a compelling need to immediately implement these recommendations, and as noted, we believe some of

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them would require additional unidentified resources and/or need to be further clarified. We believe this would present logistical difficulties given the timeframe within which the election resolution needs to be approved, and we believe it would be prudent to evaluate these recommendations more in depth for consideration in the next round of LACERA elections.

Please also note this Office, via a memorandum dated February 24, 2006 (attached), previously submitted recommendations regarding the LACERA election to your Board that focused on augmenting the LACERA election process and achieving uniform candidate compliance with election resolution.

If you have any questions, please call me, or your staff can contact Vincent Amerson of this Office at (213) 974-1168 or at vamerson@cao.co.la.ca.us.

DEJ:MKZ
VLA:os

Attachment (1)

c: Acting Executive Officer, Board of Supervisors
County Counsel
All Department Heads
LACERA
Board of Investments
Board of Retirement
Bruce Perelman



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DAVID E. JANSSEN
Chief Administrative Officer

February 24, 2006

To: Mayor Michael D. Antonovich
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Supervisor Don Knabe

From: David E. Janssen
Chief Administrative Officer

SUBJECT: LACERA ELECTION

On September 20, 2005, your Board adopted the Executive Officer's recommendation to declare the identified elected persons to the relevant positions on the Board of Investments and the Board of Retirement pursuant to the Los Angeles Employees' Retirement Association (LACERA) election. In addition, your Board instructed this Office to review the current LACERA election process and make recommendations to your Board on how to improve the process.

Accordingly, this Office convened a workgroup consisting of representatives from Auditor-Controller, County Counsel, the Executive Officer of the Board of Supervisors, LACERA and the Registrar-Recorder/County Clerk to develop recommendations that focused on augmenting the LACERA election process to achieve uniform candidate compliance with the election resolutions that govern this process.

In summary, and as further outlined below:

- The election resolution, which governs the LACERA election process, allows for any candidate to protest the results of the election by filing a written protest that specifies the grounds for the protest with the Executive Officer of the Board of Supervisors.
- With input from the Executive Officer and County Counsel and an investigation by the Auditor-Controller, your Board determined that the candidates who filed the joint protest in the 2005 election cycle failed to adequately support their protest by showing that an error, omission or neglect occurred that would change the result of the election.

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- The election resolution with the recommended amendments to further enhance the election process will be presented to your Board for adoption in March 2006 by the Executive Officer. Other actions intended to enhance the process will also be undertaken as outlined below.

Election Process

State law mandates that the Board of Supervisors conduct an election to fill vacant or expired seats on the LACERA Board of Investments and Board of Retirement. LACERA is a public entity separate from the County that was created to provide retirement, disability and death benefits to County employees. The primary objective of the Executive Officer in coordinating the LACERA board member elections is to ensure that elections are conducted in an equitable manner in accordance with established procedures, and to ensure that all eligible LACERA members have the opportunity to participate in the election process. The Auxiliary Services staff of the Executive Officer are responsible for coordinating the elections to select LACERA board members.

Pursuant to Government Code Sections 31520.1, 31520.2, 31520.5 and 31523, your Board approves the procedures for elections to fill vacancies on the Board of Investments and the Board of Retirement. After the Registrar-Recorder/County Clerk certifies the election results, your Board must also declare the election results official. The person who receives the highest number of votes in each race is declared elected.

In accordance with the resolution establishing the procedures for the elections, a candidate may file a protest of the result of the election and describe the grounds for the protest. The written protest must be accompanied by supporting documentation. The resolution provides that in lieu of declaring the result of the election official, your Board may order a new election if it determines, on the basis of written protest or on your Board's own determination, that any error, omission or neglect occurred that was attributable to the County in the administration of the election sufficient to change the result.

Despite the implementation of previous recommendations to enhance the election process, a joint protest was filed during the 2005 election cycle by two unsuccessful candidates alleging that there were instances of County employees assisting candidates with their campaigning during their working hours, improper use of County mail and the County e-mail system, and the removal of campaign material from County bulletin boards.

The Executive Officer and County Counsel reviewed the protest and determined the protest lacked the required supporting documentation to show any error, omission or neglect occurred in the administration of the election. The Executive Officer recommended to your Board to reject the protests and declare the election results

official. However, your Board delayed the certification of the election results for one week to provide the Auditor-Controller time to interview additional employees in response to the protests and file a confidential report with your Board. The Auditor-Controller investigated the matter and provided your board with a report that indicated the allegations were unsubstantiated. Your Board then unanimously adopted the Executive Officer's recommendation to certify the election results and instructed this Office to review the current LACERA election process and make recommendations on how to improve the process.

Prior Recommendations

On January 4, 2000, the Auditor-Controller, in conjunction with the Executive Office, issued a report following an investigation of similar allegations of improper electioneering. That report included recommendations to reduce the incidence of future misconduct and clarify the election process, including the implementation of mandatory training for all departmental election coordinators, amendment of the Election Resolution to clearly state that election rule violations by employees may result in administrative discipline, a direct prohibition against candidates soliciting campaign contributions from LACERA fund managers, and suggestions that the County explore possible legislative changes regarding election rules violations. With the exception of the legislative changes which were determined to be infeasible, these recommendations were implemented prior to the start of the 2005 election cycle.

Recommendations for 2006 Election Cycle

The workgroup has reached a consensus in making the following recommendations to immediately strengthen and enhance the LACERA election process:

- Revise the election resolution to:
 - Clarify that each department head allow all nominees to solicit nominating signatures ***and engage in campaign-related activity*** during working hours on County property, provided such solicitation ***and activity*** is conducted during the solicited employees' lunch, break time, or other off-duty time and does not interfere with County operations or the conduct of County business.
 - Clarify the public inspection period as defined as five business days excluding weekends (Saturday and Sunday) and holidays.
 - Provide for mandatory pre-election training for all departmental election coordinators and alternates.

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- Urge that department heads with work locations which have more than 100 employees who are eligible to vote designate an on-site election coordinator at each of these locations.
- Request that LACERA place the candidate's statements and the departmental election coordinators' contact information on the LACERA Website.
- Update the candidate information booklet to include the important provisions of selected election resolutions.

Unless otherwise instructed by your Board, these recommendations will be implemented as applicable by the responsible departments. Please note that despite the implementation of these best practices recommendations, there will still remain the possibility of alleged candidate misconduct or non-compliance with the election resolutions.

If you have any questions, please let us know, or your staff can contact Vincent Amerson of this Office at (213) 974-1168 or at vamerson@cao.co.la.ca.us.

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c: All Department Heads
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